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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/671,400	09/25/2003	Bernard De Mersseman	11721-035	8064

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EXAMINER
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CHIN, GARY

ART UNIT	PAPER NUMBER
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3661

DATE MAILED: 04/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/671,400

**Applicant(s)**

DE MERSEMAN ET AL.

**Examiner**

Gary Chin

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 9/25/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Specification***

1. The disclosure is objected to because of the following informalities: On page 8 of the specification, "vehicle height adjustment apparatus 34" on line 10 should be "vehicle height adjustment apparatus 40". Further, on line 18, "vehicle body 50" should be "vehicle body 30".

Appropriate correction is required.

### ***Claim Objections***

2. Claims 1 and 15-18 are objected to because of the following informalities:

As per claim 1, line 5, "predicative" should be "predictive".

As per claims 15-17, all on line 1, after "wherein", "adjusting" should be "said step of adjusting" respectively in order to avoid the antecedent basis problem. Similarly, "a vehicle" on line 2 of claims 16-17 and "the vehicle" on line 2 of claim 18 should be "the first vehicle" respectively. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 9-10, 14 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by the PCT publication WO 01/26922 submitted by applicant.

As per claims 1 and 14, figure 3 of the PCT publication clearly discloses the claimed system as well as the method for adjusting a height of a first road vehicle with respect to the

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ground prior to impacting a second road vehicle including a predictive crash sensor (item 10), a control unit (item 11) in communication with the predictive crash sensor and the height adjustment apparatus equipped with a shock absorber (item 13), a bladder (item 19) and a first valve (item 21) in fluid communication (page 9, line 4) with the bladder for releasing fluid stored in the bladder upon the issuance of a crash signal sent by the control unit.

As per claim 9, the claimed radar sensor as a predictive crash sensor is taught on page 8, line 2 of the PCT publication.

As per claim 10, page 11 of the PCT publication discloses that a conventional shock absorber can be used as the suspension unit shown in item 13 of figure 3. Further, it is well recognized by one in the art that a conventional shock absorber is a variable type as claimed.

As per claim 18, the claimed step of monitoring a speed of the first vehicle before adjusting its height is disclosed on page 8, line 4 of the PCT publication.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2-8, 11-13 and 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over the PCT publication WO 01/26922.

As per claims 2-4, 6, 8 and 11-12, it is noted that the additionally claimed second valve has not been disclosed in the PCT publication. However, it would have been readily apparent for one skilled in the art to incorporate an additional valve to the system taught in the PCT

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publication in the event that a second level of control in releasing the fluid from the bladder is deemed desirable.

As per claim 5, although the exact nature of the valve has not been disclosed in the PCT publication, however, it would have been obvious for one skilled in the art that such valve can be the well known commercially available valve with a diaphragm as claimed and admitted by applicant on page 9 of the instant specification.

As per claim 7, it is noted that the claimed mounting location of the first valve has not been explicitly disclosed in the PCT publication. However, it would have been obvious for one skilled in the art that the valve in the PCT publication can be mounted to any desirable location including the wall of the bladder as required.

As per claim 13, as admitted by applicant on page 11 of the instant specification, the additionally claimed silencer is a well-known commercially available device and is being used to reduce the noise associated with the actuation and release of fluid from the valve. Hence, based upon applicant's own admission, it would have been obvious for one skilled in the art to incorporate such well-known device into the system of the PCT publication so that the noise associated with the release of fluid from the valve can be reduced or suppressed.

As per claim 15, it would have been obvious to one skilled in the art that the valve has to be closed a predetermined time after the valve is opened during the height adjustment, otherwise the height adjustment can not be terminated.

As per claim 16, it would have been readily apparent to one skilled in the art that the height of the front end of the vehicle in the PCT publication has to be monitored first prior to the height adjustment in order to avoid any unnecessary adjustment.

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As per claim 17, it would have been obvious for one having ordinary skill in the art that the height adjustment in the PCT publication has to be less than a complete amount if the front end of the first vehicle has dropped in height, otherwise the front end of the first vehicle will not be aligned with the collided second vehicle.

7. The additional references are cited to show the related systems. Applicant(s) should consider them carefully when responding to the current office action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Chin whose telephone number is (571) 272-6959. The examiner can normally be reached on Monday-Friday 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas G Black can be reached on (571) 272-6956. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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GARY CHIN  
PRIMARY EXAMINER